

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

**ERIC JUAN FORD,**

**Plaintiff,**

**v.**

**SANDI CRUZ,**

**Defendant.**

**Case No. CIV-20-285-R**

**ORDER**

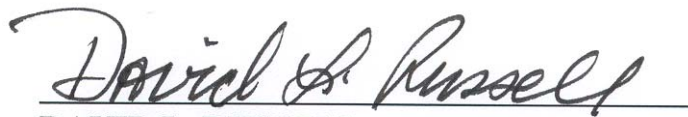
Before the Court is a Report and Recommendation [Doc. No. 43] filed by Magistrate Judge Amanda Maxfield Green recommending the Court grant Plaintiff Eric Juan Ford's Motion for Voluntary Dismissal [Doc. No. 42] and deny Plaintiff's motion requesting the return of his filing fees and Marshals' service of process fee. Mr. Ford filed an objection and brief in support asking to withdraw his Motion for Voluntary Dismissal because the statute of limitations has now run, and he would be unable to refile his suit. Doc. Nos. 44, 45. Plaintiff also notes that if his \$65.00 service fee was not received, it is because someone was trying to avoid service.

The Court has reviewed the filings and grants Plaintiff's request to withdraw his Motion for Voluntary Dismissal. Accordingly, Plaintiff's request to the Magistrate Judge that the Court return his filing fees is moot. As to Mr. Ford's request to return his Marshals' service of process fee, there is no record that either the Clerk of Court or the Marshals Service ever received the check. Therefore the Court contacted the accounts officer at the Department of Corrections and was informed that because the check had never been cashed

it had become “stale” and the \$65.00 was re-deposited into Mr. Ford’s inmate trust account as of October 5, 2021.

Considering the above, the Court hereby grants the Motion for Extension of Time. Doc. No. 41. Mr. Ford has an additional **forty-five days** from the date of this Order to complete service of process. If he would like to utilize the Marshals’ assistance in effecting service, Plaintiff must make a payment of sixty-five dollars (\$65) made payable to the U.S. Marshals and mailed to the Clerk of Court. The Court emphasizes payment should be mailed to the Clerk of Court, who will then forward his previously completed USM-285 and his payment to the U.S. Marshals. If Mr. Ford does not complete service within forty-five days, the Court will dismiss his Complaint without prejudice with no further notice. The Court hereby declines to adopt the Report and Recommendation as it relates to the recommendation to grant Plaintiff’s Motion to Dismiss and as to his Motion for Extension of Time. The Court adopts the Report and Recommendation to the extent it recommends that no fees be returned.

**IT IS SO ORDERED** this 28<sup>th</sup> day of October 2021.

  
DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE